

ANNEX B: THE NATIONAL BASELINE ASSESSMENT (NBA) TEMPLATE

This draft NBA template is being made publicly available for open consultations and road-testing from November 2017 to May 2018. The Danish Institute for Human Rights (DIHR) and the International Corporate Accountability Roundtable (ICAR) welcome and encourage governments, business enterprises, civil society organisations, academics, and other interested actors to utilise this template and provide your feedback during this period.

Please share your comments, experiences, and concerns with DIHR and ICAR by 30 May 2018, by contacting either Elin Wrzoncki, Senior Advisor, Human Rights and Development, DIHR at elwr@humanrights.dk or Sarah McGrath, Legal and Policy Director, ICAR, at sarahm@icar.ngo.

A NBA on business and human rights has the primary objective of assessing the current level of implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) in a given state. It brings together an analysis of the legal and policy gaps in UNGP implementation with an overview of the adverse human rights impacts of business to identify the most salient human rights issues in a given context. In this way, it serves to inform the formulation and prioritisation of actions in a NAP.

The NBA Template contains a suggested methodology to evaluate the current level of implementation of the UNGPs and other relevant business and human rights frameworks by state and business actors. Originally developed by DIHR and ICAR in 2014, the NBA Template has been used in various national contexts (e.g. Chile, Denmark, Mexico, Germany, Kenya, Serbia, and Zambia). This revised template incorporates user feedback and addresses all three pillars of the UNGPs. This is in contrast to the original template published in the 2014 version of the Toolkit, which only discusses the Guiding Principles under Pillars I and III that related specifically to state action.

Structure of the Template

The structure of the revised NBA Template consists of a set of tables that cover all of the UNGPs, though not individually or in consecutive order. Given the overlapping nature of the UNGPs under each pillar, this template integrates various principles together in an effort to avoid repetition of data collected. Likewise, given the cross-cutting nature of the third pillar on access to remedy, the template mainstreams remedy under pillar one on the state duty to protect and pillar two on the business responsibility to respect.

The NBA template provides guiding questions aimed at helping users identify relevant information under each pillar of the UNGPs. The guiding questions provided in this template reflect the conceptual and methodological framework of indicators developed by the Office of the High Commission for Human Rights (OHCHR). In line with OHCHR's framework, the guiding questions seek to support researchers in assessing progress of implementation at the structural, process, and outcome levels, which together provide a comprehensive picture of duty-bearers' efforts to address their obligations and responsibilities.

Guiding questions on commitments to international, regional, and soft law human rights standards reflect the structural dimension; questions aimed at identifying the measures taken by duty-bearers to meet such standards yield information on the process dimension; and questions on the actual result of these efforts reflect the outcome dimension.

These guiding questions may be applied and contextualised at the national level, and should not be considered exhaustive.

Moreover, the template indicates links to the Goals and targets of the 2030 Agenda for Sustainable Development where relevant. This serves to situate the business and human rights agenda in the broader context of sustainable development, and point to ongoing debates in that sphere that may hold relevant information for the assessment. In addition, the monitoring framework that has been established to track progress on implementation of the Sustainable Development Goals represents a potential data source for this assessment. A table on more specific links between the Guiding Principles and the SDGs is provided at the end of this document.

Methodology for Conducting a NBA

NBAs, as a methodology of evaluation, are commonly conducted using a combination of quantitative and qualitative methods. Quantitative methods include surveys to generate new data or, where resources are scarce or reliable data already exists, to extract secondary data, ideally with support from statisticians or specialists. Qualitative methods, such as interviews or focus groups, can be used to gather complementary information about values, opinions, behaviour, and context, such as social and cultural factors.

For all sections of the template which relate to the state duty to protect or provide access to effective remedy, the NBA should clearly identify measures taken by the state that support compliance with international and regional human rights standards, as well as any gaps where state measures are lacking or inadequate. Completing the NBA will therefore require research into provisions of a state's constitution, domestic statutes, administrative regulations, policies, public programmes, and other interventions of public bodies. The NBA should cite and collate relevant recommendations of international human rights bodies, such as the International Labour Organisation (ILO) and UN and regional human rights bodies. Data sources to consider when completing the NBA include official statistics, existing survey results, reports by the national human rights institution (NHRI) and intergovernmental organisations, scholarly journals, and newspaper articles.

With regard to business enterprises active or based in the state's territory, their implementation of the UNGPs under Pillar II and the UNGPs relevant to business responsibility in Pillar III should be analysed in order to support the design of adequate measures within the NAP to address implementation gaps. This includes assessing to what extent businesses have committed to respecting human rights, including by carrying out human rights due diligence, and to provide and/or collaborate in providing effective remedy.

Information on the state's duty to protect and remedy should be accessible through publicly available sources online or through access to information requests. However, not all information will be available, especially in the case of information relevant to business policies, processes and remediation efforts. In these cases, more effective sources may include: information collected through bi-lateral interviews and/or questionnaires targeting businesses or state agencies.

For more information about the methodology of conducting a NBA, see sections 2.2.2. NBA Methodology and 2.2.3. Analysing the Implementation of the UNGPs by the State and Business in the full NAPs Toolkit.

I. PILLARS I & III: STATE DUTY TO PROTECT & REMEDY

STATE DUTY: LAWS, POLICIES, AND REGULATION

Guiding Principle 1: States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Guiding Principle 2: States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Guiding Principle 3: In meeting their duty to protect, states should:

- (a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;**
- (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;**
- (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;**
- (d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.**

Relevant Sustainable Development Goals and Targets

- Goal 1: End poverty in all its forms everywhere (Target 1.4)
- Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture (Target 2.3)
- Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (Target 8.5, Target 8.7, Target 8.8)
- Goal 12: Ensure sustainable consumption and production patterns (Target 12.4)
- Goal 10: Reduce inequality within and among countries (Target 10.3)

<ul style="list-style-type: none"> • Goal 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development (Target 17.1, Target 17.5, Target 17.11) • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (Target 16.7, 16.10, Target 16.a, Target 16.b) 	
<p>1. International and Regional Legal and Soft Law Instrument</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state signed and ratified relevant international and regional human rights legal instruments and any corresponding protocols? Including:</p> <ul style="list-style-type: none"> • ICERD, ICCPR, ICESCR, CEDAW, CAT, CRC, CRPD; • The core ILO conventions; • The African Charter on Human and Peoples’ Rights; • The American Convention on Human Rights; and • The European Convention for the Protection of Human Rights and Fundamental Freedoms. 	
<p>Are there any other relevant human rights legal instruments that the state has signed and ratified?</p>	
<p>Has the state given a formal statement of support for the UNGPs?</p> <p>Has the state disseminated information about the UNGPs through public media sources, internal guidance documents, or other materials? Has the state put in place measures to capacitate state actors and local citizens with knowledge and information on the UNGPs, for example, through workshops, conferences, or other events?</p>	

<p>Has the state participated in international efforts to develop a binding instrument on human rights and business?</p>	
<p>Which other relevant instruments has the state signed or made a formal statement of support? For example:</p> <ul style="list-style-type: none"> • The Sustainable Development Goals; • The OECD Guidelines for Multinational Enterprises; • The OECD Anti-Bribery Convention; • The UN Convention against Corruption; or • Open Government Partnership. 	
<p>Does the state support and participate in other relevant initiatives on business and human rights? For example:</p> <ul style="list-style-type: none"> • The Extractive Industries Transparency Initiative (EITI); • The International Code of Conduct for Private Security Service Providers Association (ICoCA); and • The Voluntary Principles on Security and Human Rights (VPs). 	
<p>Has the state noted and accepted recommendations from the UN Human Rights Council, such as through the Universal Periodic Review (UPR) process, or from other UN treaty bodies that are relevant to preventing adverse human rights impacts by businesses domiciled within the state’s territory or jurisdiction, operating at home or abroad? How has the state followed up on these recommendations and has the state monitored its implementation of the recommendations?</p>	
<p>Has the state noted and followed up on recommendations by any other international or regional bodies regarding steps to prevent business-related adverse human rights impacts?</p>	

2. National Laws, Policies, and Regulations	
Guiding Questions	Status and Gaps
Has the state put in place relevant structures to ensure implementation of the UNGPs, for example, through the establishment or designation of a body tasked with implementation measures or through the allocation of internal resources?	
Has the state introduced and/or implemented policies to help facilitate business respect for human rights through the adoption of National Action Plans (NAPs) on business and human rights, corporate social responsibility, development, anti-discrimination, government transparency, women’s rights, or human rights in general?	
Has the state set out and fully disseminated to relevant government agencies (including foreign embassies and consulates) clear policy statements on the expectation that all businesses domiciled in its territory and/or jurisdiction respect human rights?	
Is the state undertaking or supporting activities to identify specific business sectors or activities that may have particularly negative impacts on human rights, such as the extractive, apparel, and other sectors?	

<p>Is the state undertaking or supporting any activities to identify specific impacts on particularly vulnerable groups, such as women, children, minorities, and indigenous peoples?</p>	
<p>Has the state developed guidance for businesses on respecting human rights that is appropriate to different industry sectors (for example, high-risk sectors such as extractives), particular human rights issues (for example, working conditions, discrimination), and different types of business enterprises (for example, MNEs, SMEs)?</p>	
<p>DUE DILIGENCE</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state established laws requiring business enterprises to do human rights due diligence, including in relation to their subsidiaries and suppliers, regardless of where they operate?</p>	
<p>Has the state provided guidance around its expectations and best practices in relation to human rights due diligence?</p>	
<p>CORPORATE STRUCTURES AND GOVERNANCE</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state established measures to overcome the challenges associated with limited liability of parent companies? For example, has the state established a “duty of care” for parent companies in terms of the human rights impacts of their subsidiaries, regardless of where the subsidiaries operate?</p>	
<p>Has the state put in place corporate and/or securities laws and regulations to support ethical corporate behaviour and business respect for human rights, such as those relating to</p>	

<p>financial reporting; articles of incorporation; registration; and corporate board, director, and stock exchange listing requirements?</p>	
<p>Has the state put in place laws and regulations to support disclosure and reporting by corporations on human rights, labour rights, environmental impacts, corporate social responsibility, or other ethical issues? Do these laws and regulations extend to reporting on operations and activities abroad? Has the state provide guidance on how human rights impacts are “material” to the economic performance of the reporting business enterprise?</p>	
<p>Has the state provided any incentives for businesses to respect human rights, such as such as preferential treatment in procurement processes where a company evidences the responsibility to respect human rights?</p>	
<p>LABOUR</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state put in place labour laws and regulations to ensure business respect for workers’ rights? Are these laws in line with the protection provided by the ILO Fundamental Principles and Rights at Work (Core Conventions) and any other ILO conventions ratified by the state?</p>	

<p>Has the state provided law enforcement and relevant authorities with information and training on issues related to labour rights, including forced labour, child labour, non-discrimination, freedom of association, collective bargaining, living wage, etc.?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these labour laws and regulations?</p>	
<p>Are there publicly reported cases of business-related adverse impacts on labour rights, including child labour, forced labour, discrimination, violations of freedom of association and collective bargaining, and inadequate working conditions, when operating at home or abroad?</p>	
<p>ENVIRONMENT AND LAND</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state put in place environmental laws and regulations to ensure the protection and promotion of the rights of its citizens to health, a healthy environment, and livelihoods including, for example, clean water, clean air, and cultivatable land?</p>	
<p>Has the state put in place land management laws and regulations to ensure the protection of the rights of its citizens, including the recognition of customary land rights and the incorporation of human rights considerations into environmental and social impact assessments and related licensing practices?</p>	

<p>Has the state provided law enforcement and relevant authorities with information and training on issues related to land rights and the linkages between human rights and the environment?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?</p>	
<p>Are there publicly reported cases of business-related adverse human rights impacts in the context of land and the environment?</p>	
<p>COMMUNITY CONSULTATION AND ENGAGEMENT</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Are there legal requirements for businesses to conduct public consultations before, during, and after the commencement of a major project that may impact local communities?</p>	
<p>Is there a requirement for the free, prior, and informed consent (FPIC) of potentially impacted indigenous communities? Has the state provided relevant authorities with information and training on issues related to the rights of indigenous peoples, including their right to FPIC?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?</p>	
<p>Are there publicly reported cases of failure by businesses domiciled in the state’s territory or jurisdiction to effectively conduct public consultations and/or FPIC processes in relation to their operations at home or abroad?</p>	

OCCUPATIONAL HEALTH AND SAFETY	
Guiding Questions	Status and Gaps
Has the state put in place health and safety laws and regulations to ensure business respect for the physical and mental health of workers and communities?	
Has the state provided law enforcement and relevant authorities with information and training on labour rights in the context of occupational health and safety?	
Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?	
Are there publicly reported cases of adverse impacts on the health and safety of workers at home or abroad by businesses domiciled in the state’s territory or jurisdiction?	
TAX	
Guiding Questions	Status and Gaps
Has the state put in place tax laws and regulations to support ethical corporate behaviour and business respect for human rights?	
Has the state provided law enforcement and relevant authorities with information and training on the human rights impacts of tax evasion and avoidance?	
Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?	

<p>Are there publicly reported cases of adverse human rights impacts stemming from tax evasion and avoidance by businesses domiciled in the state’s territory or jurisdiction operating at home or abroad?</p>	
<p>TRADE AND INVESTMENT</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Does the state require that a human rights impact assessment be conducted on the potential impacts of trade and investment agreements before signing such agreements?</p>	
<p>Do trade and investment agreements include specific, enforceable provisions requiring compliance with internationally recognised human rights, including labour rights?</p>	
<p>Has the state put in place laws and regulations to promote business respect for human rights within trade practices? For example, are there laws or regulations that ensure that goods and services being imported are not linked to violations of internationally recognised human rights, including labour rights?</p>	
<p>Are there laws and policies that ensure that exported goods and services, such as dual use technologies, do not contribute to adverse human rights impacts abroad?</p>	
<p>Do state institutions that support overseas investment have and enforce performance standards that support the protection and promotion of human rights?</p>	

<p>Has the state provided law enforcement and relevant authorities with information and training on issues related to trade and investment?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these laws, policies, and regulations?</p>	
<p>Are there any publicly reported instances of trade and investment agreements undermining the realisation of human rights at home or abroad? For example, the use of a stabilisation clauses or investor-state dispute settlement provisions to undermine the state’s duty to protect human rights.</p>	
<p>ANTI-BRIBERY AND CORRUPTION</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state put in place laws and regulations aimed at promoting anti-bribery and combatting corruption within and across governments?</p>	
<p>Has the state provided law enforcement and relevant authorities responsible for enforcing anti-bribery and corruption laws been provided with information and training on human rights?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?</p>	

<p>Are there publicly reported cases of adverse human rights impacts stemming from corruption by business when operating at home or abroad?</p>	
<p>HUMAN RIGHTS DEFENDERS AND WHISTLEBLOWERS</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state put in place laws and regulations aimed at supporting business respect for the rights of human rights defenders and/or whistle-blowers?</p>	
<p>Has the state provided law enforcement and relevant authorities with information and training on issues related to the specific needs and challenges faced by human rights defenders and whistle-blowers?</p>	
<p>Does the state have systems in place to monitor enforcement and implementation of these laws and regulations? For example, through establishing a government focal point responsible for monitoring adverse impacts on human rights defenders and whistleblowers?</p>	
<p>Are there publicly reported cases of adverse human rights impacts on human rights defenders and/or whistle-blowers by business when operating at home or abroad?</p>	

INFORMATION AND COMMUNICATION	
Guiding Questions	Status and Gaps
Has the state put in place laws and regulations to ensure the protection of access to information, freedom of expression, privacy, and other rights relevant to information and communication, both on and off line?	
Has the state provided law enforcement and relevant authorities with information and training related to information and communication-based rights?	
Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?	
Are there publicly reported cases of adverse human rights impacts on access to information, freedom of expression, privacy, and other information and communication rights by business when operating at home or abroad?	
CONSUMER PROTECTION	
Guiding Questions	Status and Gaps
Has the state put in place consumer laws and regulations to ensure business respect for human rights?	
Has the state provided law enforcement and relevant authorities with information and training on human rights issues related to consumer protection, such as product safety and labelling practices?	

Does the state have systems in place to monitor enforcement and implementation of these laws and regulations?	
Are there publicly reported cases of adverse human rights impacts on consumers by businesses domiciled in the state’s territory or jurisdiction when operating at home or abroad?	
ANTI-DISCRIMINATION	
Guiding Questions	Status and Gaps
Has the state put in place anti-discrimination laws and regulations to support business respect for human rights?	
Does the state have systems in place to monitor enforcement and implementation of these laws and regulations, such as an anti-discrimination or equal opportunity body?	
Are there publicly reported cases of discrimination at home or abroad by businesses domiciled in the state’s territory or jurisdiction?	
NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)	
Guiding Questions	Status and Gaps
Has the state established a National Human Rights Institution (NHRI)? If so, is it compliant with the Paris Principles? Does the NHRI’s mandate include business and human rights? Does the NHRI have sufficient funding to carry out its mandate?	
Does the state finance NHRI activities within the field of business and human rights? Does the state support the NHRI in providing guidance on human rights to business enterprises?	

<p>Does the state support the NHRI in monitoring the human rights impacts of business?</p>	
<p>ADDITIONAL CONSIDERATIONS</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state introduced and/or implemented sector-specific laws and policies to help facilitate business respect for human rights and alignment with international initiatives? Such as within particularly high-risk industries, e.g. the extractive and apparel sectors.</p>	
<p>Has the state put in place any other relevant laws and regulations aimed at protecting and promoting human rights from business-related harms, both at home and abroad?</p>	

STATE-BUSINESS NEXUS	
<p>Guiding Principle 4: States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.</p> <p>Guiding Principle 5: States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.</p> <p>Guiding Principle 6: States should promote respect for human rights by business enterprises with which they conduct commercial transactions.</p>	
Relevant Sustainable Development Goals and Targets	
<ul style="list-style-type: none"> • Goal 12: Responsible consumption and production (Target 12.7) • Goal 17: Partnerships for the Goals (Target 17.17) • Sectors that are typically privatised include education (Goal 4), water and sanitation (Goal 6), energy (Goal 7), infrastructure (Goal 9) and security (Goal 16) 	
1. Businesses Owned or Controlled by the State, or Receiving Substantial Support and/or Services from State Agencies	
Guiding Questions	Status and Gaps
What types of human rights due diligence measures by state-owned or controlled business enterprises or businesses receiving substantial support from state agencies are required by the state?	
What types of supply chain management measures by state-owned or controlled business enterprises or businesses	

<p>receiving substantial support from state agencies are required by the state?</p>	
<p>Has the state set out any other special measures to support the human rights performance of state-owned or controlled business enterprises or businesses receiving substantial support including requiring these enterprises to take into account human rights considerations?</p>	
<p>How does the state ensure that effective human rights due diligence and supply chain management is being carried out by state-owned or controlled business enterprises or businesses receiving substantial support? What type of oversight do such government departments have over these enterprises (for example, inclusion of human rights performance information in management reports to relevant state agencies)?</p>	
<p>Are there publicly reported instances of adverse human rights impacts associated with businesses that are owned or controlled by the state?</p>	
<p>Has the state put in place measures to ensure that businesses benefitting from support from the state through export credit agencies official investment insurance, guarantee agencies or receiving other type of support from the state are respecting human rights?</p>	
<p>Are there incentives for such institutions to take human rights impacts into consideration in their financing and investment procedures?</p>	

<p>Are there publicly reported instances of companies receiving support through export credit agencies, official investment insurance, guarantee agencies or receiving other type of support from the state that have caused, contributed or been linked to adverse human rights impacts of business enterprises with whom they contract?</p>	
<p>2. Businesses Providing Public Services</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state adopted legislative or contractual protections for human rights in delivery of privatised services by the central or local government, for example, for the provision of services related to health, education, care-delivery, housing, or the penal system? Do such protections include a state-performed assessment of human rights impacts of the potential consequences of a planned privatisation of provision of public services, prior to the provision of such services? Do public procurement contracts clarify the state’s expectation that businesses respect human rights in delivering services and comply with human rights standards?</p>	
<p>Is the state a party to the Montreux Document on Pertinent International Legal Obligations and Good Practices for states Related to Operations of Private Military and Security Companies During Armed Conflict? If so, how does it incorporate commitments into national laws? Is the state party to the International Code of Conduct for Private Security Providers Association (ICoCA), and if so, how does it incorporate commitments into national laws and procurement processes? Is</p>	

<p>the state party to the Voluntary Principles on Security and Human Rights? If so, how does it incorporate commitments into national laws, including around the provision of public security?</p>	
<p>Has the state put any other measures in place to ensure that public service delivery by private enterprises does not have any negative human rights impacts?</p>	
<p>What kind of screening processes does the state have in place to promote business respect for human rights, such as by providing preferential treatment to business enterprises that demonstrate respect for human rights? Does the state exclude from the bidding process those businesses that have demonstrated poor respect for human rights (such as poor and hazardous working conditions, as well as excessive use of force or maltreatment of individuals receiving care)?</p>	
<p>Do relevant state agencies effectively oversee the activities of the enterprises that provide services on behalf of the state? Does the state provide for adequate independent monitoring and accountability mechanisms of the activities of the private providers? Does the state provide for specific oversight of high-risk services, such as those related to health and security?</p>	
<p>Are there publicly reported adverse human rights impacts associated with the delivery of public services by private enterprises, including, for example, in the area of education, healthcare, housing, security, etc.?</p>	

3. Businesses from which the State Procures Goods or Services or conducts other Commercial Activities	
Guiding Questions	Status and Gaps
Do state agencies explicitly require contractors to comply with specific human rights protections? If so, have state agencies produced guidance for contractors to address requirement to comply with human rights protections??	
Can state agencies use human rights criteria as a consideration in procurement processes? At what stage of the procurement process can human rights criteria be included (can human rights protections be incorporated beyond the initial procurement phase and in the life-cycle of the contract, including the monitoring and review phases)? Have state agencies taken steps to clarify how human criteria can be incorporated in public procurement? Does such guidance cover the full procurement life-cycle?	
Do state agencies conduct a human a rights risk assessment to identify the risk of human rights violations and abuses in procurement contracts or categories of procurement contracts? If such assessments occur, what action is taken by state agencies in relation to the contracts deemed to be in a category of higher risk of potential human rights violations and abuses?	

<p>Can due diligence requirements be included within a public procurement contract? Do state agencies require contractors to undertake human rights due diligence (including human rights risk assessments)? Do state agencies provide guidance to businesses on how to conduct human rights due diligence including human rights impact assessments?</p>	
<p>Do state agencies require contractors to disclose information on their supply chain, including specific subcontractors and the addresses of factories or sites of supply? Do state agencies require contractors to certify that they know their subcontractors, including specific locations of production or supply, and that they have management systems to ensure compliance? Do state agencies confirm a contractor’s assurances and require development of compliance plans during the award stage?</p>	
<p>Do state agencies investigate the involvement of business enterprises in adverse human rights impacts?</p>	
<p>Do state agencies engage in selective or targeted public procurement, such as preferential award to vulnerable groups (for example, ethnic minorities or persons with disabilities) or to businesses working to achieve specific human right objectives (for example, gender equality or post-conflict reintegration)?</p>	
<p>Have state agencies put any other measures in place to ensure that public procurement complies with human rights protection or to promote respect for human rights among other businesses with which it engages in commercial relationships,</p>	

<p>such as through business partnerships for economic development and innovation (for example, growth funds, or strategic support for innovation in certain sectors, such as green energy or medical technology, or requiring businesses to implement sector-wide standards which include human rights protections)?</p>	
<p>What remedial procedures or mechanisms are in place to address human rights abuses by contractors? What remedial procedures or mechanisms are in place for victims of human rights abuses by contractors?</p>	
<p>What percentage of resources is dedicated to contract management? Do state agencies have information systems and dedicated staff to monitor contractor compliance with human rights requirements? Do state agencies require contractors to regularly report on the performance of the contract? Do these reports include human rights issues?</p>	
<p>Are there publicly reported cases of adverse human rights impacts associated with businesses from which the state procures or conducts other commercial activities with?</p>	

STATES' ROLE IN RELATION TO BUSINESS CONDUCTED IN CONFLICT-AFFECTED AREAS	
<p>Guiding Principle 7: Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:</p> <ul style="list-style-type: none"> (a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships; (b) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence; (c) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation; <p>Ensuring that their current practices, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.</p>	
Relevant Sustainable Development Goals and Targets	
<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (Target 16.1) 	
1. Legal and Policy Considerations in Conflicted-Affected Areas	
Guiding Questions	Status and Gaps
Has the state signed relevant international and regional treaties, directives, etc. in relation to the business role in conflict-affected areas, such as the Geneva Conventions, Arms Trade Treaty, regional directives, etc.?	
Does the state participate in relevant initiatives (for example, the VPs, ICOC, EITI, the Kimberley Process, etc.)?	

<p>Are there publically available examples of the effectiveness of state participation in relevant initiatives or examples of shortcomings in relevant initiatives in relation to upholding their mission of promoting human rights in conflict-affected areas?</p>	
<p>Has the state engaged in multilateral approaches to prevent and address acts of gross human rights abuses, such as through accepting the jurisdiction of the International Criminal Court (ICC)?</p>	
<p>Has the state introduced civil or criminal liability for enterprises domiciled or operating in their territory or jurisdiction that commit or contribute to gross human rights abuses, including abuses committed abroad? Is it possible for the state to impose sanctions on persons and entities, for example by seizing equipment or freezing assets?</p>	
<p>Are there laws, policies, and regulations in place to ensure that materials and resources sourced from conflict-affected areas are not connected to or exacerbating conflict?</p>	
<p>Does the state have a procedure for investigating business activities in conflict-affected areas (e.g. through the appointment of a special mission assignment to the local embassies to investigate in the host state and report to relevant authorities in the home state)?</p>	
<p>Has the state established procedures for communicating with host states regarding business operations in conflict-affected areas?</p>	

<p>Has the state put in place efforts with the aim of fostering closer cooperation among its development assistance agencies, foreign and trade ministries, and export finance institutions in its capital and within its embassies, as well as between these agencies and host state actors to address the risk of business involvement in gross human rights abuses?</p>	
<p>Are there publicly reported instances of adverse human rights impacts caused by business-entities domiciled in the state but operating abroad in conflict-affected areas? Do these examples include a state failure to investigate, act upon, and provide remedy?</p>	

POLICY COHERENCE ACROSS STATE ACTIVITY

Guiding Principle 8:

States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.

Guiding Principle 9:

States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.

Guiding Principle 10:

States, when acting as members of multilateral institutions that deal with business-related issues, should:

- a) Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;
- b) Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;
- c) Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.

Relevant Sustainable Development Goals and Targets

- Goal 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development. (Target 17.14)

1. Horizontal and Vertical Policy Coherence	
Guiding Questions	Status and Gaps
Has the state published a written commitment to business and human rights? If so, (1) has this commitment been communicated to governmental departments and (2) does this commitment help to clarify the role of different departments (for example, labour, business, development, foreign affairs, finance, or justice)?	
Has the state developed a clear division of responsibilities to help coordinate human rights and business issues between and across different government agencies and departments?	
Has the state developed guidance material and training to help clarify the roles of different departments in promoting and protecting human rights with regard to the role of business? Does this guidance include specific information on protection of human rights and how this relates to international and regional obligations and commitments? Does this guidance include specific information on the protection of human rights in trade, with an emphasis on the role of regional bodies and international organisations, such as international and regional finance institutions? Does the guidance provide information on the roles and responsibilities across ministries or agencies?	
Has the state provided the responsible entity or office with adequate resources in terms of funding and political support, in order for it to work actively in contributing to meeting the duty of the state to protect human rights within individual areas of responsibility and expertise?	

2. Policy Coherence in State Agreements with Business Enterprises	
Guiding Questions	Status and Gaps
Are there laws or policies in place to ensure that human rights considerations are included in agreements between the state and business enterprises?	
Are there laws or policies in place to ensure that business enterprises domiciled in the state’s territory or jurisdiction respect the principles of responsible contracting when those businesses enter into agreements with host states?	
Does the state support or advocate for the inclusion of human rights considerations and the principles of responsible contracting in agreements between the state and business enterprises or between host states and businesses domiciled in the state’s territory or jurisdiction?	
Are there publically available examples of adverse human rights impacts associated with specific state-business agreements? If so, where human rights considerations included in the contracting process?	
3. State Policy Coherence in Multilateral Institutions	
Guiding Questions	Status and Gaps
Has the state established procedures and measures to ensure support for business and human rights frameworks, including the UNGPs, in positions taken internationally and regionally (for	

<p>example, on human rights screening and documenting of negotiating positions, as well as training of trade and development officials on business and human rights frameworks)?</p>	
<p>Does the state promote its duty to protect and the corporate responsibility to respect in multilateral institutions, including international trade and financial institutions, the UN system, regional institutions, and with business organisation and workers’ associations? Has the state taken measures to promote awareness of the UNGPs and the broader business and human rights agenda?</p>	
<p>What have been the impacts of state efforts to promote the UNGPs and other business and human rights frameworks in multilateral institutions to which it is a member?</p>	

ACCESS TO STATE-BASED REMEDY	
<p>Guiding Principle 25: As part of their duty to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.</p>	
Relevant Sustainable Development Goals and Targets	
<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (Target 16.3) 	
1. Redress for Business-Related Human Rights Abuses	
Guiding Questions	Status and Gaps
Has the state put in place laws, policies, and regulations that introduce civil liability, criminal liability, and administrative sanctions, such as fines or limited access to state funding, for business-related adverse human rights impacts, including for impacts that take place abroad? Do these mechanisms apply to individuals and/or businesses?	
Has the state put in place mechanisms that introduce compensation , such as fines or restoration of livelihoods, for business-related adverse human rights impacts, including for impacts that take place abroad?	
Has the state put in place mechanisms that introduce processes for the prevention of harm, such as injunctions or guarantees of non-repetition, for business-related adverse human rights impacts, including for impacts that take place abroad?	

Has the state put in place mechanisms to promote apologies for business-related adverse human rights impacts, including for impacts that take place abroad?	
Has the state made efforts to promote public awareness and understanding of the existence of laws, policies, and regulations that ensure redress for business-related adverse human rights impacts?	
Does the state have systems in place to monitor enforcement and implementation of laws, policies, and regulations?	

JUDICIAL MECHANISMS

Guiding Principle 26: States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

1. Judicial Mechanisms

Guiding Questions	Status and Gaps
Do the national courts have the competency to adjudicate claims of business and human rights abuse, including for abuses that take place outside of their territorial jurisdiction?	
Do national labour tribunals have the competency to adjudicate claims of business-related human rights abuse?	
Do other judicial mechanisms have the competency to adjudicate claims of business-related human rights abuse?	

<p>Has the state made efforts to promote public awareness and understanding of judicial mechanisms, including how they can be accessed?</p>	
<p>Are the judiciary, including civil, criminal, and commercial courts, as well as employment and other administrative tribunals and law enforcement, trained on issues related to business and human rights?</p>	
<p>What measures are in place to monitor and ensure that judicial mechanisms are operating in a way that is impartial, with integrity, and in accordance with due process?</p>	
<p>2. Barriers for Access to Judicial Remedy</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state taken measures to ensure that there are no legal barriers to prevent legitimate cases from being brought before the courts? This includes ensuring that:</p> <ul style="list-style-type: none"> (1) it is possible to hold businesses accountable under domestic criminal and civil laws, meaning that liability for both natural and legal persons exists under the law; (2) all members of society can raise complaints, including indigenous peoples, migrants, women, and children, and are afforded the same legal protection as for the wider population; (3) extraterritorial harms can be addressed within the courts, as permitted by the UNGPs and international human rights law; and 	

<p>(4) legal issues such as conflicts of law, statutes of limitations, parent company limited liability, <i>forum non conveniens</i> and standards of liability do not result in barriers to victims of business-related human rights harms in accessing the courts.</p>	
<p>Has the state taken measures to ensure that there are no practical or procedural barriers to prevent legitimate cases from being brought before the courts? This includes:</p> <ul style="list-style-type: none"> (1) ensuring financial support including legal aid and other types of assistance; (2) providing legal representation or guidance; (3) providing opportunities for collective redress, class-actions, and multi-party litigation; (4) allowing for recovery of attorneys' fees; (5) preventing retaliatory actions against claimants; (6) reforming access to evidence; and (7) providing training, resources and support for prosecutors and judges. 	
<p>Has the state taken measures to ensure that there are no social barriers to prevent legitimate cases from being brought before the courts? This includes:</p> <ul style="list-style-type: none"> (1) addressing power imbalances between the parties; (2) targeted awareness-raising among vulnerable groups (for example, women, indigenous people, and children); (3) availability of child-sensitive procedures to children and their representatives; (4) efforts to combat corruption; and (6) protection of human rights defenders. 	

<p>Has the state taken measures to increase understanding of barriers amongst members of the judicial, other judicial mechanisms, and law enforcement, including through training and educational materials?</p>	
<p>Are there publicly reported examples and cases where victims of business-related human rights abuse have been unable to access effective judicial remedy due to the presence of legal, procedural, and/or social barriers?</p>	

JUDICIAL MECHANISMS

Guiding Principle 27: States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive state-based system for the remedy of business-related human rights abuse.

Guiding Principle 28: States should consider ways to facilitate access to effective non-state-based grievance mechanisms dealing with business-related human rights harms.

Guiding Principle 31: Effectiveness Criteria.

Effectiveness Criteria

In order to ensure their effectiveness, non-judicial grievance mechanisms, both state-based and non-state-based, should be:

- (a) **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognised human rights;
- (g) **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

1. Non-Judicial Mechanisms	
Guiding Questions	Status and Gaps
Does the state provide mediation-based non-judicial mechanisms such as National Contact Points under the OECD Guidelines? Can these mechanisms be used for remedying business-related human rights abuses?	
Does the state provide adjudicative mechanisms such as state-run complaints offices (e.g. ombudsman offices)? Can these mechanisms be used for remedying business-related human rights abuses, including for abuses that take place outside of their territorial jurisdiction?	
Does the state provide other types of non-judicial mechanisms? Can these mechanisms be used for remedying business-related human rights abuses, including for abuses that take place outside of their territorial jurisdiction?	
What measures does the state take to promote awareness of state-based non-judicial mechanisms with the public and potentially impacted communities?	
Does the state provide staff of state-based non-judicial mechanisms with support, education, and training on issues related to business and human rights?	
Do these mechanisms meet the effectiveness criteria set out in UNGP 31? What measures are in place to monitor the ongoing effectiveness of state-based non-judicial mechanisms?	

2. Role of NHRI	
Guiding Questions	Status and Gaps
<p>Has the state given the NHRI a mandate that allows it to:</p> <ul style="list-style-type: none"> (1) receive and handle complaints relating to business-related adverse human rights impacts; (2) be in a supportive role to claimants, such as through mediation, conciliation, expert support, or legal aid; (3) promote awareness on remedy to and redress for business-related adverse human rights impacts; (4) provide training of relevant stakeholders on their access to remedy for business-related adverse human rights impacts; <p>and/or</p> <ul style="list-style-type: none"> (5) provide counselling on which remedy to access? 	
<p>What measures are in place to monitor the effectiveness of the NHRI in accordance with UNGP 31?</p>	
<p>Are there publicly reported examples and cases where the NHRI has failed to perform its role as a non-judicial mechanism for addressing grievances?</p>	
3. Barriers for Access to Non-Judicial Remedy	
Guiding Questions	Status and Gaps
<p>Has the state taken measures to ensure that there are no barriers to prevent legitimate cases from being heard by non-judicial mechanisms? Measures to prevent barriers include:</p> <ul style="list-style-type: none"> (1) addressing imbalances between the parties; 	

<p>(2) targeted awareness-raising among vulnerable groups (such as women, indigenous peoples, or children); (3) expert advice or other types of assistance; (4) efforts to combat corruption; and (5) protection of human rights defenders.</p>	
<p>Has the state taken measures to increase understanding of barriers amongst staff of state-based non-judicial grievance mechanisms, including through training and educational materials?</p>	
<p>Are there publicly reported examples and cases where victims of business-related human rights abuse have been unable to access effective non-judicial remedy due to the presence of barriers?</p>	
<p>4. Facilitating Access to Non-state-based Mechanisms</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Has the state supported access to (1) business-based grievance mechanisms (such as whistle-blower mechanisms or project-level grievance mechanisms); (2) multi-stakeholder grievance mechanisms; (3) organisational-based grievance mechanisms (including the union systems); (4) international grievance mechanisms; and/or (5) regional grievance mechanisms through efforts such as dissemination of information or legal aid?</p>	

PILLAR II & III: BUSINESS RESPONSIBILITY TO RESPECT & REMEDY

The purpose of this section is to support governments and other stakeholders in assessing the status of corporate actors, operating or headquartered in a given country, in meeting their responsibility to respect. This analysis will help to identify more precisely where the needs and challenges lie with respect to current state policies and processes aimed at ensuring respect for human rights by companies in different sectors and of different sizes. Doing so will provide a basis for tailoring NAP actions targeting business implementation of the relevant UNGPs under pillars II and III.

The template below suggests a set of guiding questions that will need to be tailored to a specific country context, and/or to the specific businesses or sector the research team proposes to focus on. In recognition that it is not feasible to conduct this assessment for all business enterprises domiciled or operating in a specific state, it is advisable that researchers define the scope of their study. For example, this template could be used to focus on the largest companies, or on companies from a specific sector. This template can also be helpful for companies themselves to support benchmarking their own policies and practices against the UNGPs.

These guiding questions may be applied and contextualised at the national level, and should not be considered exhaustive.

Methodology for Conducting Pillar II NBA Assessment

Accessing the type of information necessary for answering the questions for the entire business community in a given country will be challenging. While information on some large companies might be publicly accessible through websites, sustainability reports etc., this will not necessarily be enough to assess the degree of implementation of the UNGPs by those companies. Moreover, relevant information will not be available for most companies, in particular in states where there are no or little requirements on non-financial reporting by companies, or where smaller companies are not required to report.

The NAP process provides a number of opportunities to generate useful data, as well as to encourage companies to start and/or further the implementation of the UNGPs. For example, bilateral meetings with companies, and industry-associations may enable the state to gather information and relevant documents. Company surveys in collaboration with industry associations and/or initiatives such as the UN Global Compact local networks or the CSR networks of business organisations can provide useful ways to

generate data on corporate policies and procedures relevant to human rights. In addition, reports from civil society, trade unions, NHRIs, academia and the media, as well as engagement with rights-holders, will be important sources of information.

Various tools and methodologies have been developed over recent years in order to measure the level of implementation of the UNGPs by companies, at the project- level (human rights impact assessment methodologies)¹, or at sector-level in a given country (sector-wide impact assessment- SWIAs²) or company level (human rights indicators for business (HRIB)³, UN Global Compact self-assessment tool⁴ etc.). Methodologies have also been developed to measure and enable comparison across different companies on specific issues, such as anti-corruption (Corporate Anti-Corruption Benchmark)⁵ or transparency more generally (Transparency in Myanmar Enterprises)⁶. The Corporate Human Rights Benchmark (CHRB)⁷ is an initiative to assess the largest publicly-traded companies in the world on 100 human rights indicators. The template offered here builds on these tools including on the indicators of the CHRB, but does not provide any scoring methodology to rank companies.

Project-level impact assessment and sector-wide impact assessment can usefully be applied in conjunction with a NAP process as they will help to document actual or typical impacts of certain companies/sectors and support the identification of specific measures needed to address particular sectoral challenges.

¹ The Danish Institute for Human Rights, *Human Rights Impact Assessment Toolbox and Guidance*, <https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox>

² Myanmar Centre on Responsible Business, *Sector-Wide Impact Assessments*, <http://www.myanmar-responsiblebusiness.org/swia/> (last visited Nov. 24, 2017)

³ Business and Human Rights Resource Center, *Platform for Human Rights Indicators for Business*, <https://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib> (last visited Nov. 24, 2017).

⁴ Global Compact, *UN Global Compact Self-Assessment tool*, <http://www.globalcompactselfassessment.org/> (last visited Nov. 24, 2017).

⁵ Transparency International UK, *the Corporate Anti-Corruption Benchmark*, <http://www.transparency.org.uk/our-work/business-integrity/corporate-anti-corruption-benchmark/> (last visited Nov. 24, 2017).

⁶ The Myanmar Centre for Responsible Business, *Pwint Thit Sa*, <http://www.myanmar-responsiblebusiness.org/pwint-thit-sa/> (last visited Nov. 24, 2017).

⁷ Corporate Human Rights Benchmark, *Corporate Human Rights Benchmark Pilot Methodology 2016* (March 2016), https://business-humanrights.org/sites/default/files/CHRB_report_06_singles.pdf (last visited Nov. 24, 2017).

HUMAN RIGHTS POLICY COMMITMENT

Guiding Principle 11: Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

Guiding Principle 12: The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

Guiding Principle 13: The responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

Guiding Principle 14: The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts.

Guiding Principle 15: In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

<p>Guiding Principle 16: As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:</p> <p>(a) Is approved at the most senior level of the business enterprise;</p> <p>(b) Is informed by relevant internal and/or external expertise;</p> <p>(c) Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;</p> <p>(d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;</p> <p>(e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.</p>	
<p>Relevant Sustainable Development Goals and Targets</p> <ul style="list-style-type: none"> All Goals 	
<p>1. Human Rights Policy Commitments</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Do businesses have specific and publicly-available human rights policy commitments in place, detailing the businesses responsibilities, commitments and expectations with regard to human rights, and applicable throughout their operations? Do companies disseminate their human rights policy commitments externally to relevant stakeholders and to their business relationships through providing adequate training, guidance?</p>	
<p>Do business enterprises’ policy commitments include, at a minimum, the internationally recognised human rights expressed in the International Bill of Rights, and the principles</p>	

<p>concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work? Do business policy commitment refer to the full content of human rights and to specific instruments of particular relevance to their industry? Do policy commitments refer to the UNGPs and/or the OECD Guidelines for Multinational Enterprises?</p>	
<p>Do business enterprises commit to other standards related to the corporate responsibility to respect human rights, such as the IFC Performance Standards?</p>	
<p>Do business enterprises’ human rights policies cover the entire corporate group and the value chain (including business relationships)? Are these policy commitments integrated into contractual requirements with third parties?</p>	
<p>Do business enterprises participate in initiatives relevant to the corporate responsibility to respect human rights, including multi-stakeholder initiatives such as the UN Global Compact, the Global Network Initiative (GNI), the International Code of Conduct for Private Security Service Providers Association (ICoCA), the Voluntary Principles on Security and Human Rights Initiative, the Extractive Industries Transparency Initiative (EITI), the Ethical Trading Initiative (ETI), Fair Labor Association (FLA), etc.?</p>	

2. Management Commitment and Embedding of Human Rights into the Company	
Guiding Questions	Status and Gaps
Have business enterprises' policy commitments been informed by relevant internal and/or external expertise, gathered through credible online or written resources, and through consultations, including with recognised experts and affected stakeholders?	
Have business enterprises' policy commitments been approved and endorsed at the most senior level of the business, for example by the CEO, board of directors, or senior management? Do the board of directors and/or senior management receive incentives linked to the implementation of the human rights policy commitments?	
Do business enterprises establish clear lines and systems of accountability and responsibility regarding respect for and implementation of policy commitments across operations and business relationships? Do businesses have a process for updating their human rights policies and processes?	
Do business enterprises disseminate their human rights policy commitments internally to all staff through providing adequate training, guidance, incentives, and disincentives?	
Do business enterprises ensure that internal teams are supported by human rights expertise, and the roles and responsibilities for assessing, mitigation and management are assigned and adequately resourced?	
Do business enterprises integrate their human rights policy statements in all operations, and ensure coherence with policies and procedures that govern wider business activities and relationships? Do business enterprises integrate attention to	

human rights risks into its broader enterprise risk management systems?	
---	--

HUMAN RIGHTS DUE DILIGENCE

Guiding Principle 17: In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.

Guiding Principle 18: In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

Guiding Principle 19: In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

- (a) Effective integration requires that:

- (i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;
 - (ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.
- (b) Appropriate action will vary according to:
- (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
 - (ii) The extent of its leverage in addressing the adverse impact.

Guiding Principle 20: In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:

- (a) Be based on appropriate qualitative and quantitative indicators;
- (b) Draw on feedback from both internal and external sources, including affected stakeholders.

Guiding Principle 21: In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

- (a) Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences;
- (b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;
- (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality

Guiding Principle 23: In all contexts, business enterprises should:

- (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;**
- (b) Seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements;**
- (c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.**

<p>Guiding Principle 24: Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.</p>	
<p>Relevant Sustainable Development Goals and Targets</p>	
<ul style="list-style-type: none"> • All Goals. • Target 12.6: Encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle 	
<p>1. Assessment of Adverse Human Rights Impacts</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Do business enterprises consider human rights standards as the benchmark for risk and impact assessment?</p>	
<p>Do business enterprises identify their actual and potential impacts caused or contributed to by their operations, as well as impacts directly linked through operations, products or services through business relationships (contractual and non-contractual) with a particular attention to the human rights potential and actual impacts specific to their industry (salient human rights issues)?</p>	
<p>Do business enterprises assess human rights impacts at key moments of operations and business developments such as entering new markets or relationships or expanding operations?</p>	

<p>Do business enterprises conduct human rights impact assessment at project level? If so, do they apply a Human Rights-Based Approach to the assessment? (see Chapter 3 of the Toolkit and 10 criteria in DIHR’s Human Right Impact Assessment Guidance</p>	
<p>Do processes for assessing impact involve consultations with stakeholders including potentially affected rights-holders? Do companies pay particular attention to human rights impacts affecting marginalised or at-risk groups, and on gender</p>	
<p>2. Integrating and Acting upon Findings and Prioritising Responses</p>	
<p>Guiding Questions</p>	<p>Status and Gaps</p>
<p>Do business enterprises ensure that impact assessment findings are internally understood, communicated on, and acted upon at the appropriate level, including through commitment from senior management and collaboration among relevant departments?</p>	
<p>Do business enterprises assign adequate resources, including financial and human resources, for integrating and acting upon findings of potential or actual adverse human rights impacts? Do business enterprises utilise leverage over other actors to mitigate any remaining impact to the greatest extent possible?</p>	
<p>Where it is necessary to prioritise actions to address impacts, do business enterprises consider the severity of human rights consequences, including the scope and scale of, and ability to remediate, particular impacts, as the core criterion?</p>	

3. Tracking and Communicating	
Guiding Questions	Status and Gaps
Do business enterprises use qualitative and quantitative indicators, including sector-specific and key performance indicators, in order to track their human rights performance?	
Do business enterprises seek external feedback (in particular from affected rights-holders) and internal feedback (including from reporting processes and lessons learned from grievance mechanisms) when tracking their human rights performance?	
Do business enterprises publicly communicate on how they address adverse human rights impacts? Is the frequency and form of public communication sufficient to evaluate the adequacy of responses? Do companies ensure that communication with regard to human rights respect does not pose risks to affected stakeholders and their representatives?	
Do business enterprises seek independent verification of their human rights reporting, for example, through third-party auditing?	
Do business enterprises take steps to ensure communications on human rights are accessible to its intended audiences, including to marginalised or at-risk groups, individuals or groups who may be impacted, and other relevant stakeholders, including investors?	

4. Reported Adverse Impacts on Human Rights	
Guiding Questions	Status and Gaps
Are there publicly reported cases of business enterprises' involvement in adverse impacts in the area of labour rights? E.g. relating to discrimination, forced labour, child labour, freedom of association and collective bargaining, working conditions, health and safety etc.?	
Are there publicly reported cases of business enterprises' involvement in adverse impacts affecting local communities? E.g. in relation to land, housing, environment, discrimination etc.	
How have the relevant businesses responded to reported cases of adverse human rights impacts? Have the relevant businesses self-reported on these cases? How do these reports compare?	
5. Human Rights Respect in Complex Environments such as Conflict-affected Areas	
Guiding Questions	Status and Gaps
Do business enterprises have specific policies and processes in place to ensure respect for human rights in complex environments, such as conflict-affected areas?	
Do business enterprises have systems and processes in place to deal with conflicting requirements between national laws and regulations and internationally recognised human rights? Are decisions related to conflicting requirements taken at senior management level?	

<p>Do business enterprises treat risks of causing or contributing to gross human rights abuses as a matter of legal compliance, regardless of the possibility of being held legally liable? Do businesses consider both direct and indirect contributions to gross human rights abuses?</p>	
<p>Do business enterprises provide positive and/or negative incentives, adequate resources, guidance and training, and clear expectations to all relevant employees, departments, and business relationship in relation to respecting human rights in complex environments? Do businesses establish clear lines and systems of accountability and responsibility in these contexts?</p>	
<p>Do business enterprises cooperate with and regularly consult with credible and independent experts and relevant stakeholders such as civil society organisations, experts, governments including NHRIs, industry bodies, multi-stakeholder initiatives, business partners, and affected rights-holders when assessing and addressing human rights risks present in operating or sustaining business relationships in complex environments?</p>	
<p>Do business enterprises specifically report on human rights respect in complex environments, such as conflict-affected areas?</p>	
<p>Are there publicly reported cases of businesses failing to respect human rights and/or contributing to or exacerbating negative human rights impacts, including gross human rights abuses in complex environments such as conflict-affected areas?</p>	

REMEDIATION

Guiding Principle 22: Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

Guiding Principle 29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.

Guiding Principle 30: Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.

Guiding Principle 31: In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms; Operational-level mechanisms should also be:

(h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.	
Relevant Sustainable Development Goals and Targets	
<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (Target 16.3) 	
1. Mechanisms for Effective Remediation of Adverse Human Rights Impacts	
Guiding Questions	Status and Gaps
Have business enterprises established clearly defined remediation processes and mechanisms through which grievances related to adverse impacts they have caused or contributed to can be raised and addressed in a systematic manner? These mechanisms can be independent, shared, or operated by a third-party. Are there any limitations to who can utilise these processes and mechanisms and the types of grievances that can be brought?	
Do business enterprises provide for or cooperate in remediation in cases of adverse human rights impacts that they are linked to through their operations or products, or services by their business relationships, including through the use of leverage?	
Do remediation mechanisms and processes that businesses have established or with which they cooperate with comply with the effectiveness criteria laid out in UNGP 31?	

<p>Do remediation mechanisms and processes that businesses have established or with which they cooperate require that complainants sign legal waivers in order to receive reparations?</p>	
<p>Do business enterprises meaningfully consult with relevant stakeholders, in particular with affected rights-holders, throughout the process of designing, operating, monitoring, and improving the grievance mechanisms they have established or cooperate with?</p>	
<p>Do business enterprises take measures to guarantee the confidentiality, dignity, and security of individuals or groups raising complaints or concerns, including by taking measures against any form of retaliation?</p>	
<p>Do business enterprises monitor the effectiveness of grievance mechanisms and processes, including by seeking internal and external feedback and through the use of both qualitative and quantitative indicators?</p>	
<p>Do business enterprises provide internal guidance, training, incentives, and sufficient resources to relevant departments and employees, and establish clear lines and systems of responsibility and accountability for remediation, including at senior management level?</p>	
<p>Are there publicly reported cases of businesses failing to provide adequate remediation for adverse human rights impacts they have caused or contributed to, or to cooperate in remediation through legitimate processes including judicial and state-based non-judicial mechanisms?</p>	

LINKS WITH THE SUSTAINABLE DEVELOPMENT GOALS

	Sustainable Development Goals and Targets
DUE DILIGENCE	<ul style="list-style-type: none"> • Goal 12: Ensure sustainable consumption and production patterns <ul style="list-style-type: none"> • Target 12.6 to “encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle”
CORPORATE STRUCTURES AND GOVERNANCE	<ul style="list-style-type: none"> • Goal 12: Ensure sustainable consumption and production patterns <ul style="list-style-type: none"> • Target 12.6 to “encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle”
LABOUR	<ul style="list-style-type: none"> • Goal 5: Achieve gender equality and empower all women and girls <ul style="list-style-type: none"> • Target 5.1 to “end all forms of discrimination against all women and girls everywhere” • Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all <ul style="list-style-type: none"> • Target 8.5 to “achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value” • Target 8.7 to “take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms” • Target 8.8 to “protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment” • Goal 10: Reduce inequality within and among countries

	<ul style="list-style-type: none"> • Target 10.3 to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard” • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.10 to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”
ENVIRONMENT AND LAND	<ul style="list-style-type: none"> • Goal 1: End poverty in all its forms everywhere <ul style="list-style-type: none"> • Target 1.4 to “ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance” • Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture <ul style="list-style-type: none"> • Target 2.3 to “double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment” • Goal 12: Ensure sustainable consumption and production patterns <ul style="list-style-type: none"> • Target 12.2 to “achieve the sustainable management and efficient use of natural resources” • Target 12.4 to “achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment”
COMMUNITY CONSULTATION AND ENGAGEMENT	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

	<ul style="list-style-type: none"> • Target 16.7 to “ensure responsive, inclusive, participatory and representative decision-making at all levels”
OCCUPATIONAL HEALTH AND SAFETY	<ul style="list-style-type: none"> • Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all <ul style="list-style-type: none"> • Target 8.8 to “protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment” • Goal 12: Ensure sustainable consumption and production patterns <ul style="list-style-type: none"> • Target 12.4 to “achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment”
TAX	<ul style="list-style-type: none"> • Goal 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development <ul style="list-style-type: none"> • Target 17.1 Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection
TRADE AND INVESTMENT	<ul style="list-style-type: none"> • Goal 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development <ul style="list-style-type: none"> • Target 17.5 to “adopt and implement investment promotion regimes for least developed countries” • Target 17.11 to “significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries’ share of global exports by 2020”
ANTI-BRIBERY AND CORRUPTION	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.7 to “substantially reduce corruption and bribery in all their forms”

<p>HUMAN RIGHTS DEFENDERS AND WHISTLEBLOWERS</p>	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.10 to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”
<p>INFORMATION AND COMMUNICATION RIGHTS</p>	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.10 to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”
<p>ANTI-DISCRIMINATION</p>	<ul style="list-style-type: none"> • Goal 10: Reduce inequality within and among countries <ul style="list-style-type: none"> • Target 10.3 to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard” • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.b to “promote and enforce non-discriminatory laws and policies for sustainable development”
<p>NATIONAL HUMAN RIGHTS INSTITUTION (NHRI)</p>	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels <ul style="list-style-type: none"> • Target 16.a to “strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime”
<p>STATE-BUSINESS NEXUS</p>	<ul style="list-style-type: none"> • Goal 12: Responsible consumption and production <ul style="list-style-type: none"> • Target 12.7 to “promote public procurement practices that are sustainable, in accordance with national policies and priorities” • Goal 17: Partnerships for the Goals <ul style="list-style-type: none"> • Target 17.5 to “adopt and implement investment promotion regimes for least developed countries”

	<ul style="list-style-type: none"> • Target 17.11 to “significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries’ share of global exports by 2020” • Target 17.17 to “encourage and promote effective public, public-private and civil society partnerships, building on experience and resourcing strategies of partnerships.” • Sectors that are typically privatised include education (Goal 4), water and sanitations (Goal 6), energy (Goal 7), infrastructure (Goal 9) and security (Goal 16)
<p>STATES’ ROLE IN RELATION TO BUSINESS CONDUCT IN CONFLICT-AFFECTED AREAS</p>	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. <ul style="list-style-type: none"> • Target 16.1 to “significantly reduce all forms of violence and related death rates everywhere”
<p>POLICY COHERENCE ACROSS STATE ACTIVITY</p>	<ul style="list-style-type: none"> • Goal 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development. <ul style="list-style-type: none"> • Target 17.14 to “enhance policy coherence for sustainable development”
<p>ACCESS TO STATE- BASED REMEDY</p>	<ul style="list-style-type: none"> • Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. <ul style="list-style-type: none"> • Target 16.3 to “promote the rule of law at the national and international levels and ensure equal access to justice for all” <ul style="list-style-type: none"> • Target 16.a to “strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime”